



Arizona Medical Board

1740 W. Adams St., Suite 4000 • Phoenix, Arizona 85007

Home Page: <http://www.azmd.gov>

Telephone (480) 551-2700 • Fax (480) 551-2705 • In-State Toll Free (877) 255-2212

FINAL MINUTES FOR BOARD REVIEW COMMITTEE A MEETING Held on Wednesday, August 2, 2023 1740 W. Adams St., Board Room A • Phoenix, Arizona

Committee Members

Gary R. Figge, M.D., Chair

Jodi A. Bain, M.A., J.D., LL.M.

Bruce A. Bethancourt, M.D., F.A.C.R., F.A.S.T.R.O.

R. Screven Farmer, M.D.

Constantine Moschonas, M.D., F.A.A.N.

Eileen M. Oswald

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Figge called the Committee's meeting to order at: 10:38 a.m.

B. ROLL CALL

The following Committee members were present: Dr. Figge, Dr. Bethancourt, Dr. Farmer, Dr. Moschonas, and Ms. Oswald.

The following Committee member was absent: Ms. Bain.

ALSO PRESENT

The following Board staff were present: Patricia E. McSorley, Executive Director; Heather Foster, Public Records Coordinator; and Amy Skaggs, SIRC Coordinator; Investigations. Elizabeth Campbell, Assistant Attorney General ("AAG") was also present.

C. OPENING STATEMENTS

D. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

Individuals who addressed the Committee during the Public Statements portion of the meeting appear beneath the case.

E. APPROVAL OF MINUTES

- June 9, 2023 Review Committee A Minutes; including Executive Session

MOTION: Dr. Bethancourt moved to approve the June 9, 2023 Board Review Committee A minutes; including Executive Session.

SECOND: Dr. Mosconas.

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Farmer, Dr. Moschonas, Dr. Bethancourt, and Ms. Oswald. The following Committee member was absent: Ms. Bain. The following Committee member abstained: Dr. Farmer.

VOTE: 4-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

LEGAL MATTERS

F. FORMAL INTERVIEWS

1. MD-19-1001A, MD-20-0925A, RONALD A. YUNIS, M.D., LIC. #25201
Dr. Yunis was present with Counsel Flynn Carey.

Board staff summarized that in October 2019 Board staff received a complaint that Dr. Yunis had been arrested after pulling out a gun while in his car and brandishing it at an individual outside of the clinic where he was working. He was charged with a felony and reported it to the Board within the 10-day requirement. Subsequent to the report, notice was received of a summary suspension from St. Joseph's due to the charges and quality of care concern. Dr. Yunis resigned from St. Joseph's while under investigation. Allegations for 5 patients were noted and review of these cases was carried out. Regarding MR, the allegation was for inappropriate vacuum delivery with greater than 3 pop-offs and outside of national norms. The concern was that there was no indication for the vacuum delivery and the patient was not given adequate opportunity to push for delivery. Regarding CB, the allegation was inappropriate performance of a uterine wedge resection outside of Accreta policy guidelines. Based on the records, the procedure was carried out in the Obstetrical Unit rather than the Main OR. The other concern is that the procedure was delayed until almost 38 weeks with the standard being an elective procedure to be done at 34-36 weeks gestation, and the patient was admitted in labor. Both of these can increase the risk of significant hemorrhage with potential consequences for both the mother and fetus. Regarding BL, the allegation was failure to obtain group B strep (GBS) status and improper treatment of chorioamnionitis. Due to a penicillin allergy, Dr. Yunis ordered Azithromycin. The recommended option would be cefazolin and gentamicin. Regarding GCU, the allegation was inappropriate use of an intrauterine pressure catheter; inappropriate use of Pitocin in the setting of recurrent decelerations and inadequate fetal monitoring during second stage of labor in a high risk pregnancy. Based on the nursing continuous infusion notes, when fetal stress developed, Dr. Yunis did not discontinue the Pitocin and only slightly decreased it. AROM and placement of an IUPC during latent phase without any evidence of fetal stress is not indicated and can increase the risk for fever. Fetal heart rate monitoring was limited without a scalp electrode applied. Regarding KB, the allegation was inadequate prenatal screening for anemia and inadequate management of postpartum severe anemia. The patient's H&H at 14 weeks was 11.8/35.7. Dr. Yunis did not do another H&H in the second trimester. He noted that he now does an H&H at 28 weeks, which is the standard per ACOG, but previously only would do one if the patient was "high risk. A follow up of the hemoglobin of 5.6 within a short period of time was indicated. Dr. Yunis did not do a follow up until 14 weeks post-partum when the Hgb was 11.8. Considering the severe anemia post-partum, even without symptoms, an H&H should have been rechecked sooner than 14 weeks post-partum and even prior to discharge. Case MD-20-0925 was reviewed at the April 8, 2021 Board meeting and was returned for further investigation to have a new quality of care review completed. The allegation was that Dr. Yunis inappropriately attempted to perform an external version in an office setting and failed to explain the procedure including risks to the patient. The initial reviewer found that the physician did deviate from the standard of care in attempting the version. The second MC that reviewed the case agreed with the findings. Dr. Yunis underwent a psychiatric evaluation completed in July 2020, which showed no evidence of mental disorder that would interfere with his practicing medicine. Dr. Yunis was also issued an Interim Order for Competency Evaluation and underwent a PACE evaluation in October 2022 and December 2022 with results being Pass; Category 2, indicating room for improvement. The recommendations were to improve Physical Examination Skills and to improve Medical Record Keeping. Board staff noted that the December 15, 2022 felony conviction was designated a misdemeanor.

Mr. Carey provided an opening statement to the Committee where he confirmed that Dr. Yunis has a misdemeanor conviction but noted that it did not involve a patient or care and the requested that the Committee not find a violation in subsection (r). Regarding the standard of care cases, Mr. Carey stated that the hospital peer review was politicized and noted that there was no actual finding of patient harm. Mr. Carey noted that Dr. Yunis has

no mental health issues, is technically proficient and a competent physician. Mr. Carey stated that discipline is not necessary in this case.

During questioning, Dr. Yunis informed the Committee that he currently does obstetrical care through 14 weeks. Dr. Yunis confirmed that he would perform the ECV in an office setting today since the risks are infinitesimally small and he is an expert in this. Dr. Yunis explained that the patients get to decide and that he discusses the procedure in great detail. Dr. Yunis explained it is done under ultrasound guidance the entire time. Dr. Yunis further explained that if there was any type of extenuating circumstance the version would be done in the hospital setting. In the event of a complication from an eversion in the office setting, Dr. Yunis said he had coverage with Dr. Bujak and Dr. Plimpton and the hospital is across the street, but noted that he has never had a single episode in his career. Dr. Yunis informed the Committee of the terms of his plea agreement. Dr. Yunis explained the situation that occurred regarding St. Joe's peer review and that the cases were solicited within a three month period after the accrete case.

Ms. Oswald noted for the record that in St. Joe's peer review, there were many instances of complaints over several years.

Dr. Yunis confirmed that no recommendations for anger management has been made by any hospital but acknowledged that his demeanor could have been better as it's interpreted differently by different people.

Mr. Carey provided a closing statement where he stated that there was no patient harm and requested a non-disciplinary outcome.

Dr. Haas stated that in regards to the version case, Dr. Yunis and his attorney provided literature, which also supported versions being done int the hospital rather than in the office and confirmed that in the case of the C-section, there is an addition to the records that says main OR.

During deliberations, Ms. Oswald opined that there is unprofessional conduct. Ms. Oswald stated that there was a pattern of issues and there is evidence of violating policies. Ms. Oswald also expressed concerns of quality and safety of care.

Ms. Campbell noted that the Board would not be able to include the carrying of the gun into the hospital in violation of policy as it is outside the four year statute.

Ms. Oswald opined that for MD-19-1001A are the five cases that were identified by the medical consultant to have quality of care issues, to have not met the standard of care and the he St. Joe's peer review there is a violation of 27(r) and 27(e). With regards to MD-20-0925A there was a lack of written informed consent regarding the version.

MOTION: Ms. Oswald moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(d), (e) and (r).

SECOND: Dr. Bethancourt.

Dr. Farmer inquired about violation (d) and how the physician initially denied it.

Ms. Campbell informed the Committee that violation for (d) is committing a felony, whether or not involving moral turpitude or a misdemeanor involving moral turpitude. The disorderly conduct with a weapon is a misdemeanor at this point. The felony allegation was that Dr. Yunis placed the protester at reasonable apprehension of imminent physical harm by his use of the gun. The Board can find, based upon clear and convincing evidence that the conduct occurred. A conviction is not necessary for finding a violation of (d). Ms. Campbell noted that the Committee can chose to address the conduct under (r) as well, which is committing any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public. Ms. Campbell noted that this conduct occurred on clinic premises.

Dr. Farmer opined that the (d) violation should be included in the motion. Ms. Oswald opined that instead of including it under (r), it stands alone. Dr. Figge spoke against adding the (d) violation for the reasons already discussed.

VOTE: The following Committee members voted in favor of the motion: Dr. Farmer, Dr. Moschonas, Dr. Bethancourt, and Ms. Oswald. The following Committee member voted against the motion: Dr. Figge. The following Committee member was absent: Ms. Bain.

VOTE: 4-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Ms. Oswald agreed with the Letter of Reprimand recommendation and opined that monitoring may be appropriate for continuing of care and seeking of privileges in the future.

Ms. Oswald stated that the monitoring would be of the PACE recommendations.

Dr. Bethancourt discussed issuing a Decree of Censure. Dr. Farmer agreed that there is a constellation of issues, but opined that the physician is passionate and wants to do well by people. Dr. Farmer commented that there is a difference between passion and abrasiveness and inability to work in a team setting, which is the fundamental difference here and is what the cause of concern is. Dr. Farmer opined that the physician has learned and spoke against going harsher than a Letter of Reprimand. Dr. Farmer suggested the PACE program for anger management.

Ms. Rivera clarified that the program is Managing High-Impact Emotions for Healthcare Professionals.

Dr. Moschonas agreed that this was a passionate physician who wanted to do what was best for his patients.

Ms. Rivera confirmed that CPEP has a CME course for professional to professional communication.

Dr. Figge agreed with the comments regarding the physician's passionate demeanor.

Board staff provided information about the possible two CME programs regarding communication.

Mr. Carey inquired about the Committee issuing an interim order to complete the course.

Ms. Campbell informed the Committee of their disciplinary and non-disciplinary options that includes education.

MOTION: Ms. Oswald moved to issue Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation. Within six months, complete CPEP's Improving Inter-Professional Communication course. Within thirty days of completing the Board ordered CME, the physician shall enroll into CPEP's post-course maintenance seminars. The CME hours shall be in addition to the hours required for license renewal. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board, and Dr. Yunis' request for termination shall be accompanied by proof of successful completion of the CME.

SECOND: Dr. Bethancourt.

VOTE: The following Committee members voted in favor of the motion: Dr. Bethancourt and Ms. Oswald. The following Committee members voted against the motion: Dr. Moschonas, Dr. Figge and Dr. Farmer. The following Committee member was absent: Ms. Bain.

**VOTE: 2-yay, 3-nay, 0-abstain, 0-recuse, 1-absent.
MOTION FAILED.**

Dr. Farmer commented that although there are very clear problems the physician has good intentions and that education is appropriate. Dr. Farmer opined that given the gravity of some of the concerns disciplinary CME is appropriate.

MOTION: Dr. Farmer moved to issue One Year Probation. Within six months, complete CPEP's Improving Inter-Professional Communication course. Within thirty days of completing the Board ordered CME, the physician shall enroll into CPEP's post-course maintenance seminars. The CME hours shall be in addition to the hours required for license renewal. The Probation shall not terminate except upon affirmative request of the physician and approval by the Board, and Dr. Yunis' request for termination shall be accompanied by proof of successful completion of the CME.

SECOND: Dr. Mosconas.

Dr. Figge spoke in favor of issuing an Advisory Letter with the recommended CME because probation is still discipline regardless of the level of discipline and is a reportable action. Dr. Farmer opined that there is a potential difference in the degrees of discipline. It is a different message that is embedded in this, that there was a problem here and it does rise to the level of discipline given the whole pattern. This also has a recognition that this is something the physician, through his efforts, can substantially remediate.

VOTE: The following Committee members voted in favor of the motion: Dr. Farmer, Dr. Mosconas, Dr. Bethancourt and Ms. Oswald. The following Committee member voted against the motion: Dr. Figge. The following Committee member was absent: Ms. Bain.

**VOTE: 4-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.**

G. FORMAL INTERVIEWS

1. MD-22-0756A, KISHORE TIPIRNENI, M.D., LIC. #24200

Dr. Tipirneni was present with Counsel Flynn Carey. Complainant T.M. addressed the Committee during the Public Statements portion of the meeting.

Board staff summarized that this case in which a 61-year-old male underwent a primary right total knee arthroplasty performed by Dr. Tipirneni in August, 2020. The allegations are a failure to properly perform a total knee arthroplasty (TKA) and a failure to provide appropriate follow-up care to TM. The provided medical record documentation appeared to be incomplete based upon the licensee's subsequent references to events that remain undocumented. Approximately 14 months after TM's surgery; Dr. Tipirneni documented that the patient continued to exhibit knee stiffness and the joint remained warm to the touch but was without obvious signs of infection. TM returned to the licensee and described difficulty ambulating in addition to constant knee pain and stiffness. Dr. Benoit performed a revision knee arthroplasty approximately 2 years after TM's primary knee arthroplasty with Dr. Tipirneni. Dr. Benoit noted the presence of extensive arthrofibrosis, this was excised. Dr. Benoit dictated the following: 'On the femoral side, I went down to a size 6 in order to appropriately size the anterior part of the femur and avoid overstuffing of the patellofemoral joint.'

Mr. Carey made an opening statement to the Committee and noted that this case is regarding a total knee arthroplasty and the device used followed the manufacturers' guidelines. Mr. Carey noted that Dr. Tipirneni used MicroPort's device and that the size used was appropriate. Mr. Carey stated that there is not clear and convincing evidence that the physician made an error .

Dr. Tipirneni provided an opening statement, where he stated that the tibia component was properly sized and that this was a case of arthrofibrosis, which is a rare but known complication. He provided the appropriate treatment of manipulation under anesthesia and physical therapy, which typically works for most patients. Dr. Tipirneni

opined that he did everything appropriately and unfortunately the patient had a known complication of arthrofibrosis and required revision surgery.

Dr. Tipirneni informed the Committee of his typical post-surgical regiment and stated that he was unsure of why it was not documented. Dr. Tipirneni noted that in most patients after manipulation, inflammation and pain gets better after several months. Dr. Tipirneni explained that about three to ten percent of patients develop these complications and that most get better over time.

In closing, Dr. Tipirneni opined that nothing he did caused the complication and that this was a known rare complication of the surgery. Dr. Tipirneni opined that he provided the appropriate care and treatment.

During deliberation, Dr. Bethancourt opined that there has been unprofessional conduct for an (e) violation for medical records not being generated. Dr. Bethancourt stated that choosing the component was a judgement call and not the issue. Dr. Bethancourt opined that there was an (r) violation since there was not appropriate follow-up since the patient was in pain for a two-year period without it being addressed.

MOTION: Dr. Bethancourt moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (r).

SECOND: Dr. Farmer

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Farmer, Dr. Moschonas, Dr. Bethancourt and Ms. Oswald. The following Committee member was absent: Ms. Bain.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Dr. Bethancourt opined that this does not rise to the level of discipline.

MOTION: Dr. Bethancourt moved to issue an Advisory Letter for failure to maintain adequate medical records and failure to provide adequate follow-up treatment and care. While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Moschonas.

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Farmer, Dr. Moschonas, Dr. Bethancourt and Ms. Oswald. The following Committee member was absent: Ms. Bain.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

H. FORMAL INTERVIEWS

1. MD-20-0737A, MD-20-0831A, MD-21-0621A, MD-21-0199A, SCOT G. FECHTEL, M.D., LIC. #25410

Dr. Fechtel was present with Counsel Flynn Carey.

Mr. Carey informed the Committee that the CPEP certificate was received yesterday and will be submitted to Board staff.

The Committee members accepted the CPEP certification for consideration.

Board staff summarized that this case was opened pursuant to Dr. Fechtel's Board order for a Letter of Reprimand and Two Year Probation to include periodic chart reviews in case MD-18-0218A. CPEP reported that three patients did not meet the standard of care in chart review #1 for care rendered in February 2020. An MC reviewed the case and found that Dr. Fechtel met the standard of care in all three cases. However, the MC noted that there was further room for improvement in the medical recordkeeping. In case MD-

20-0831A, three charts were pulled for a MC review. The timeframe for the care rendered to the patient ranged from 2016 to 2020. The MC found that Dr. Fechtel deviated from the standard of care in two of the three cases regarding patients CB and LG. The MC stated that Dr. Fechtel inappropriately prescribed opioids, benzodiazepines, and Soma. The MC noted that in all cases the medical records were inadequate without a clearly stated plan for treatment of the medical problems. The MC also maintained that monitoring and documentation was inadequate and provided examples of positive UDS results for CB and JO with no documentation that it was addressed in the records. Case MD-21-0199A was opened based on CPEP's chart review #4 and #5 for the timeframe of July through December 2020. An MC reviewed four patient charts and found deviations from the standard of care in two of the four cases. In patients JD and LE, multiple deviations from the standard of care were identified. Dr. Fechtel denied all the allegations and attributed some of the documentation issues to a formatting discrepancy. Dr. Fechtel also provided the opinion from an expert who opined that Dr. Fechtel met the standard of care with regard to JD and LE. Case MD-21-0621A was opened based on CPEP's chart review #6 for the timeframe of January through March 2021. An MC reviewed three patient charts and found deviations from the standard of care in all cases. SIRC expressed concern regarding whether Dr. Fechtel has fully incorporated the education from the controlled substance prescribing CME into his practice during the chart review process and noted that the two most recent reviews (CPEP 9/11) were considered favorable, which does demonstrate some improvement in practice.

Mr. Carey provided an opening statement to the Committee and noted that some of these reviews predate the completion of the PBI course. Mr. Carey stated that Dr. Fechtel has improved since completing the course and has also completed the medical records and prescribing courses. Dr. Fechtel has ultimately come back favorable and is meeting the standard of care. Mr. Carey requested that the Committee contemplate if more monitoring is necessary.

Dr. Fechtel provided an opening statement and stated informed the Committee of the changes that he has since made to his medical recordkeeping.

During questioning, Dr. Figge commented that the issue is regarding the timing of when the cases were reviewed and when the CME courses were completed.

Dr. Fechtel confirmed that he's had two consecutive favorable chart reviews.

Board staff confirmed that there have been 12 total CPEP reviews; 8 were favorable and 4 were unfavorable.

Dr. Fechtel informed the Committee of the CME Courses he took and what he learned. Dr. Fechtel stated that completed the prescribing of opioids course and now refers patients who require opioids to pain management. Dr. Fechtel has also completed a medical records course to help him incorporate the EMR and to take more accurate dictation. Dr. Fechtel confirmed that he now checks the CSPMP for every prescription and refill and this is documented in the chart.

Mr. Carey provided a closing statement to the Committee and stated that there was a note for the patient on 90mg of Ambien that if she went above that Dr. Fechtel would refer her to pain management. Mr. Carey stated that there is proof that efforts were made for CBT regardless of if the patients were on board.

During deliberation, Dr. Figge noted that there were some questionable issues that have been explained and justified. Dr. Figge noted that there was some chart review issues and some of them occurred prior to completion of the CME and there are more favorable than non-favorable reviews.

MOTION: Dr. Figge moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (r).

SECOND: Dr. Farmer
VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Farmer, Dr. Moschonas, Dr. Bethancourt and Ms. Oswald. The following Committee member was absent: Ms. Bain.
VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

Dr. Figge inquired if the previous case has been terminated.

Board staff clarified that although the order has been expired staff was not comfortable terminating the probation without a new order.

Dr. Figge noted that the terms for termination of the current probation is two favorable chart reviews, which has been met.

Board staff confirmed that staff can terminate the current probation upon completion of the current case.

Dr. Figge opined that this does not rise to the level of discipline due to mitigating factors. The physician has completed the recommended CME and is incorporating what he's learned into his practice and given the explanations and justifications given during today's interview.

MOTION: Dr. Figge moved to issue an Advisory Letter for inappropriate prescribing of controlled substances and inadequate documentation. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.

SECOND: Dr. Moschonas.

Dr. Farmer spoke against the motion as this is someone who has already had a Letter of Reprimand for a documentation issue and given the issues regarding prescribing testosterone to one patient and the concerns regarding sleep in another patient. Dr. Farmer expressed concern regarding the physician's prescribing and opined that this does rise to the level of discipline. Dr. Figge noted that LE was at an advanced stage of cancer which could have made it more difficult to obtain a sleep study. Ms. Oswald spoke against the motion as she would like to see the improvements demonstrated. Dr. Figge reiterated that the last few reviews after completion of the courses showed improvement which showed learning.

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Moschonas and Dr. Bethancourt. The following Committee members voted against the motion: Dr. Farmer and Ms. Oswald. The following Committee member was absent: Ms. Bain.

VOTE: 3-yay, 2-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

CONSENT AGENDA

I. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

1. MD-20-0167A, MARCO B. SAUCEDO, M.D., LIC. #27068
Attorney Michele Thompson was present.

MOTION: Dr. Farmer moved to the draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand.

SECOND: Dr. Bethancourt

VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Bethancourt, Dr. Farmer, Dr. Moschonas, and Ms. Oswald.
The following Committee member was absent: Ms. Bain.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

GENERAL BUSINESS

J. DISCUSSION REGARDING DEBRIEFING ON COMMITTEE PROCESSES
Committee members agreed that the committee format is working well and allows for in depth discussion.

K. ADJOURNMENT

MOTION: Dr. Farmer moved for adjournment.

SECOND: Dr. Moschonas.


VOTE: The following Committee members voted in favor of the motion: Dr. Figge, Dr. Bethancourt, Dr. Farmer, Dr. Moschonas and Ms. Oswald. The following Committee member was absent: Ms. Bain.

VOTE: 5-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The meeting adjourned at: 3:17 p.m.




Patricia E. McSorley, Executive Director